

Response 01, ISS1.002  
Application No. 10/811,550

## REMARKS

This is a response to the Office Action of December 15, 2004. This response is submitted on May 12, 2005, accompanied by a petition for a two-month extension of time and the requisite small entity fee.

Applicant currently amends claim 1 to further clarify the inventive subject matter. Applicant cancels claims 6–17. Claims 2–5 are not amended, but depend from the currently amended claim 1.

It is submitted that the claims presented herein overcome the rejections of the first office action. The currently amended claim 1 is based on the application as filed, and on information and belief, Applicant certifies that no new matter has been added to this application

Claim1 as presented herein recites:

A flue liner insert comprising four individual components of sheet material, each component having a cross section that is generally L-shaped with an altered a beveled corner, the components together forming a vertical flue passage, each component comprising adjustable fastening means such that each component is independently adjustable in position with respect to the other components.

The beveled corner is disclosed and taught in the specification as filed (see FIG. 7A). In the Office Action, the Examiner stated that the “different shapes of the corner is considered to be an obvious matter of design choice”. However, applicant submits that the beveled corner is a critical distinction which allows the invention to achieve its result.

As disclosed in the application as filed, there are variations in the radius of the inner corners of a given flue tile. The use of the beveled corner allows the components to accommodate such flue tiles, which have a fairly large tolerance due to the manufacturing process.

Moreover, as disclosed in the application as filed, the beveled corner of the flue liner insert of the present invention functions to take advantage of the fact that smoke does not flow through the entire rectangle bounded by the flue tile, but flows within an oval that is circumscribed in the tile. By being constructed with a beveled corner, the circumscribed oval is preserved when the insert is in use.

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Furthermore, Applicant's invention is well suited for joining two flue tiles together, being capable of accommodating the large tolerance commonly found in flue tiles. None of the cited prior art references discloses a device formed of components having a beveled corner.

Furthermore no combination of the cited prior art references are suitable for joining two flue tiles together and accommodating the large tolerance commonly found in flue tiles.

Applicant's patent counsel appreciatively acknowledges the opportunity to conduct a telephone interview with the examiner on April 14, 2005. During that interview, the applicant's invention was discussed in relation to the cited prior art references. The claims are hereby amended to further distinguish Applicant's invention from the cited prior art references.

The Examiner has cited Bayley (US Patent 850,126) against claim 1. Applicant points out that a fundamental aspect of the device disclosed in Bayley is that it does not have a beveled corner as disclosed in the present application. The Bayley device is not suitable for joining two ceramic flue tiles in the way that can be easily achieved with Applicant's invention. Furthermore, the Bailey device is not designed for fitting inside a flue tile and does not have the beveled corners that Applicant teaches are very beneficial for a flue liner insert that goes inside of a flue tile. As can be seen in Figure 1 of Bayley, the device fits on the outside of a chimney, thus teaching away from Applicant's flue liner insert.

The Examiner has cited Perry (US Patent 5,025,712) against claims 1-7. Applicant points out that a fundamental aspect of the device disclosed in Perry is that it is a chimney cover, and not a flue liner insert as is the invention disclosed by Applicant. The device disclosed by Perry does not have a beveled corner as disclosed in the present application. As taught in the present application, Applicant's invention distributes the load of the chimney extension over a large portion of the supporting flue tile, rather than only the top edge or lip of the supporting flue tile, as is the case with the Perry device. Furthermore, the Perry device can not be used to join two flue tiles to extend a chimney.

The Examiner has cited Seifert (US Patent 1,415,199) in view of Bayley against claims 1, 2 and 5-9 as filed. Applicant points out that the

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Seifert device also does not have a beveled corner. Moreover, the Seifert reference expressly teaches away from the concept of a beveled corner. On page 2, lines 3-6, the Seifert reference states: "The section 30, as shown in figure 2, comprises a flat body plate having lateral flanges 33 which are bent **at right angles** in the same direction from the body plate... [Emphasis added.]"

The corners having **right angles** taught by the Seifert reference are incapable of accommodating the variations in the radius of the inner corners of a given flue tile. Therefore the Seifert device is incapable of minimizing the restriction of flow due to the insert, whereas Applicant's invention allows maximum flow of smoke and gases up the chimney. The Applicant's invention, by using beveled corners, is enabled to fit tightly against all four sides of a flue tile that has varied corner inner radii so that draft and usable flue cross section is not reduced. This is not achievable when right angles are used, as in the Seifert device.

Applicant having canceled claims 6-17, the other rejection is moot.

### CONCLUSION

The Examiner is respectfully requested to reconsider the rejections in view of the claim amendments herein and the foregoing remarks. A notice of allowability is earnestly solicited. If any questions remain, the Examiner is invited to phone Applicant's undersigned attorney to resolve them promptly.

Respectfully submitted,

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US Patent Application 10/811,550  
Confirmation no. 1379  
GAU/Examiner: 3749/Joyce  
First named inventor: Issod  
Title: Method and Apparatus for Extending a Chimney

/sandra g. kushner/

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Sandra G. Kushner, Paralegal to Gerry J. Elman, Reg. 24,404

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